

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

JUDITH TRACKWELL, )  
                        )  
Plaintiff,         )                   4:05CV3171  
                        )  
v.                    )  
                        )  
B & J PARTNERSHIP, )                   MEMORANDUM AND ORDER  
                        )  
Defendant.         )  
                        )

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The plaintiff's Third Amended Complaint, filing 122, does not name Clay F. Smith, William D. Smith, A. Joyce Smith, Capitol Title, Homeservices of Nebraska, Chicago Title, Home Real Estate, Home Services of America, F. Ward Hoppe, Susan Laduke, James Lamphere, Robert Moline, Michael Tavlin, and Woods Brothers Realty, all previously identified as defendants, as remaining defendants in this lawsuit. However, these defendants have not formally been dismissed, either by the plaintiff's voluntary dismissal or by court order in response to any party's motion, resulting in some lingering confusion as to current status of the parties, and particularly the identity of the defendants.

Neither an answer nor a motion for summary judgment has ever been filed by any defendant. Therefore, the plaintiff may voluntarily dismiss defendants without leave of the court by filing a notice of dismissal. Fed. R. Civ. P. 41(A)(1)(i).

IT THEREFORE HEREBY IS ORDERED:

1. If the plaintiff intends to dismiss Clay F. Smith, William D. Smith, A. Joyce Smith, Capitol Title, Homeservices of Nebraska, Chicago Title, Home Real Estate, Home Services of America, F. Ward Hoppe, Susan Laduke, James Lamphere, Robert Moline, Michael Tavlin, and Woods Brothers Realty as defendants, she shall file a notice of dismissal on or before October 4, 2006.

2. In the absence of a filed notice dismissing all defendants except B&J Partnership, a telephonic hearing will be conducted before the undersigned on October 6, 2006 at 9:00 a.m. regarding the status of the pleadings, the identity of the remaining defendants in this action, and the claims to be asserted against any defendants other than B&J Partnership. Counsel for the plaintiff shall place the call.

DATED this 29<sup>th</sup> day of September, 2006.

BY THE COURT:

s/ *David L. Piester*

David L. Piester  
United States Magistrate Judge